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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,630	06/04/2001	Gary E. Sullivan	258/278	3402
30408	7590	12/10/2004		
GATEWAY, INC. ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DR., Y-04 N. SIOUX CITY, SD 57049			EXAMINER HERNANDEZ, OLGA	
			ART UNIT 2144	PAPER NUMBER

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/874,630

**Applicant(s)**

SULLIVAN ET AL.

**Examiner**

Olga Hernandez

**Art Unit**

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18, 20-37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakabayashi et al (5,905,866) in view of Menezes et al (5,473,691).

As per claims 1-4, 20, 21, 23, 24, 26, 30, 34, 39 and 40, Nakabayashi teaches transmitting a location of the file archive to the selected server; receiving from the selected server an index page including a plurality of links, each link corresponding to one of the plurality of files in the file archive written in a conversion format readable by the client computer, wherein the file archive written in the source format is converted by the selected server into the file archive written in the conversion format; and displaying the index page on the client computer (column 12, lines 36-51 figures 48 and 49)

Nakabayashi does not teach selecting one of the plurality of servers having the highest conversion rating assigned thereto corresponding to the source format of the file archive.

However, Menezes teaches it in column 6, lines 25-41, lines 54-67, column 7, lines 1-67, column 8, and lines 1-51. Therefore, it would have been obvious to one skill in the art to combine the aforementioned inventions in order to minimize transmission time.

Moreover, it has been held that the recitation that an element is "**capable of**" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

As per claims 3, 8, 15, 27-29, 32 and 33, Menezes discloses that the invention is not limited by any particular interface and/or physical link and/or network or the likes (column 6, lines 60-67 and column 7, lines 1-9).

As per claims 5, 22 and 25, Menezes discloses locating the entry in the look-up table corresponding to the source format of the received file; and selecting the server included in the located entry of the look-up table (table 11 in column 27, where the string is the look-up table). Moreover, it has been held that the recitation that an element is "**capable of**" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

As per claim 6, the use of different operating system in network art is inherent.

As per claims 7, 12, 18, 25, 35, 36 and 37, Menezes discloses transmitting to the selected server the received file written in the source format unreadable by the client computer; receiving from the selected server the received file written in a conversion format readable by the client computer, wherein the received file written in the source format is converted by the selected server into the received file written in the conversion format; and displaying the received file written in the conversion format on the client computer using a native application on the client computer (table 13, in column 29).

As per claims 9, 16 and 31, Menezes discloses the compression of the message (abstract); therefore, it will be decompressed later in order to be utilized.

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As per claims 11 and 17, Menezes teaches encrypting the data (abstract).

As per claims 13-15, Menezes discloses transmitting to the selected server the received file written in the source format unreadable by the client computer; receiving from the selected server the received file written in a conversion format readable by the client computer, wherein the received file written in the source format is converted by the selected server into the received file written in the conversion format; and displaying the received file written in the conversion format on the client computer using a native application on the client computer (table 13, in column 29). Menezes discloses that the invention is not limited by any particular interface and/or physical link and/or network or the likes (column 6, lines 60-67 and column 7, lines 1-9).

As per claim 10, Menezes teaches how to compress information (abstract). Therefore, it would have been obvious to one skill in the art to substitute a means for another means that performs the same function in order to enhance quality.

3. Claims 19 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakabayashi et al (5,905,866) in view of Menezes et al (5,473,691), further in view of Nakabayashi et al (5,905,866).

As per claims 19 and 38, Menezes discloses the compression of the message (abstract). Menezes does not teach transmitting to the selected server the file archive written in the compressed format; receiving from the selected server an index page including a plurality of links. However, Nakabayashi teaches it in column 54, lines 29-67 and column 55 and 56. Therefore, it would have been obvious to one skill in the art to combine the aforementioned inventions in order to store the data transmitted from a server without any overlap in a communications terminal or in another server.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (571) 272-7144. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571) 272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Olga Hernandez  
Examiner  
Art Unit 2144



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